

### **REMARKS**

Applicant files this preliminary amendment along with a Request for Continued Examination (RCE) application. Prior to examination of the RCE, please enter the amendments and conduct an examination based on the claim set above. Applicant submits that claims 12, 14-18 and 22-25 are in condition for allowance, and notice to that effect is respectfully requested.

#### **I. INTERVIEW SUMMARY**

Applicants electronically filed an Interview Summary with the USPTO on April 30, 2009. That summary is reproduced immediately below for convenience.

Applicants wish to thank Examiner Woo for his courtesy in participating in an interview at the USPTO on March 30, 2009 with applicants' attorneys (Janet Pioli and Richard Godlewski). In the interview, a discussion was held regarding cited reference U.S. Pat. No. 5,630,829 to Lauterjung ("Lauterjung").

As one exemplary distinction, applicants' attorneys explained that the "short, straight segments at each end" of a limb of applicants' stent are substantially identical. It was noted that this structure is supported by applicants' specification and drawings.

Applicants' attorneys further explained to Examiner Woo that the purported "short, straight segments at each end" of a limb of Lauterjung are always substantially different. For example, the cusps 16 at one end of Lauterjung's limbs are longer than the cusps 18 pointing in an opposite direction. (see, e.g., Lauterjung at col. 6, lines 7-13; FIGS. 1 and 5).

While an agreement was not reached regarding specific claim language, Examiner Woo indicated that he understood the features and distinctions that the applicants' attorneys described in terms of the different cusp configurations. Examiner Woo suggested that if applicants can capture these distinctions, it would overcome the Lauterjung reference.

## **II. REJECTIONS UNDER 35 U.S.C. § 102(e)**

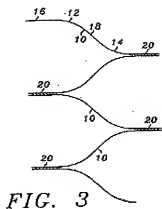
### **a. Independent Claims 12 and 25**

The Examiner has rejected independent claims 12 and 25 under 35 U.S.C. § 102(e) as being anticipated by Lauterjung. The Examiner asserts that Lauterjung clearly anticipates each and every limitation of claims 12 and 25. Applicant respectfully traverses these rejections.

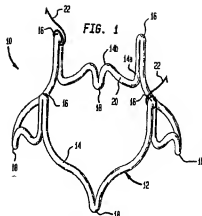
Applicant's independent claim 12 is directed to a stent comprising at least one limb, while independent claim 25 is directed to a limb forming a portion of a stent. Each of independent claims 12 and 22-25 recites "each limb is comprised of two curved portions having opposite directions of curvature, an intermediate straight, flat mid-portion connecting the two curved portions and a short, straight segment at each end."

Solely to expedite prosecution of the present application, applicant has amended independent claims 12 and 22-25 in accordance with the USPTO interview with Examiner Woo on March 30, 2009. More specifically, applicant has amended the independent claims to further recite a limb structure "wherein the short, straight segments at each end of the limb are substantially identical to one another." No new subject matter has been added, and support for the present amendments may be found throughout applicant's specification and drawings, at least with respect to FIGS. 1-5 and 8-10 and the associated detailed description.

As explained to Examiner Woo in the March 30, 2009 interview, Lauterjung teaches away from applicant's invention by showing substantially different cusps pointing in different axial directions. As an example, different cusps 16 and 18 are shown below. Lauterjung teaches that the cusps 16 pointing in one axial direction are longer than the cusps 18 pointing in the opposite axial direction. Moreover, Lauterjung teaches that the cusps 16 and 18 are oriented at different angles (e.g., the cusps 16 are substantially vertical while the cusps 18 are v-shaped in the expanded state). There is also greater contact between adjacent cusps 16 relative to the adjacent cusps 18. Thus, for several reasons, the short, straight segments at each end of Lauterjung's limbs are not substantially identical to one another.



**Applicant's FIG. 3**



**Lauterjung's FIG. 1**

Importantly, by providing a limb structure "wherein the short, straight segments at each end of the limb are substantially identical to one another," applicant's stent may behave in a substantially symmetrical manner. By contrast, Lauterjung's limbs that have cusps of different shapes, sizes and orientations may behave in an asymmetrical manner and different regions may have different hoop strengths, compression rates and other characteristics.

For at least this reason, Lauterjung cannot anticipate applicant's independent claims 12 and 22-25. Accordingly, applicant respectfully requests the withdrawal of the 35 U.S.C. § 102(e) rejection based on Lauterjung.

### **III. REJECTIONS UNDER 35 U.S.C. § 103(a)**

#### **a. Independent Claims 22-24**

The Examiner has rejected independent claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Marin, independent claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Marin and further in view of Baker, and independent claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Gianturco. In each case, Lauterjung is the primary reference.

As noted in detail above, Lauterjung does not teach or suggest a limb "wherein the short, straight segments at each end of the limb are substantially identical to one

another." Neither Marin, Baker nor Gianturco make up for Lauterjung's deficiencies with respect to the teaching or suggestion for a limb "wherein the short, straight segments at each end of the limb are substantially identical to one another."

For at least this reason, applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejections to independent claims 22-24.

#### **IV. REJECTIONS TO DEPENDENT CLAIMS 14-18**

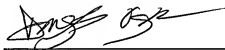
Since dependent claims 14-18 depend from independent claim 12, they are allowable for at least the reasons set forth above. Therefore, applicant respectfully requests that the rejections to claims 14-18 be withdrawn.

#### **CONCLUSION**

Each of the rejections in the Final Office Action dated January 13, 2009 has been addressed and no new matter has been added. Applicant submits that all of pending claims 12, 14-18 and 22-25 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,

Dated: May 21, 2009



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Douglas A. Oguss  
Registration No. 48,469  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200